

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1090 be amended to read as follows:

- 1 Page 2, between lines 21 and 22, begin a new paragraph and insert:
2 "SECTION 3. IC 6-1.1-5-7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A person to
4 whom the title to real property has passed, either under the laws of
5 descent of this state or by virtue of the last will of a decedent, may
6 procure a transfer of the real property on the tax duplicate on which the
7 real property is assessed and taxed. In order to procure the transfer, the
8 person must prepare an affidavit and, except as provided in section 9 of
9 this chapter, file it with the auditor of the county in which the real
10 property is situated. The affidavit shall contain the following
11 information:
12 (1) The ~~decedent's~~ **person's** date of death.
13 (2) Whether the ~~decedent~~ **person** died testate or intestate. ~~and~~
14 (3) The affiant's interest in the real property.
15 **(4) If the real property is residential property, the amount**
16 **of any taxes that have been deferred under IC 6-1.1-45.**
17 In addition, if the ~~decedent~~ **person** died testate, the affiant must attach
18 a certified copy of the decedent's will to the affidavit. However, if the
19 will has been probated or recorded in the county in which the real
20 property is located, the affiant, in lieu of attaching a certified copy of
21 the will, shall state that fact in the affidavit and indicate the volume and
22 page of the record where the will may be found.
23 (b) Except as provided in section 9 of this chapter, the county

auditor shall enter a transfer of the real property in the proper transfer book after the affidavit is filed with ~~his~~ **the county auditor's** office.

(c) No transfer made under this section has the effect of conferring title upon the person procuring the transfer.

(d) Before the county auditor may transfer real property described in subsection (a) on the last assessment list or apportion the assessed value of the real property among the owners, the owner must pay or otherwise satisfy all taxes on the parcels being transferred that have become due under IC 6-1.1-45 as a result of the death of the person by paying the property tax to the county treasurer of the county in which the real property is located.

(e) A lien for and the duty to pay property taxes that are due and owing is not released or otherwise extinguished if a county auditor transfers the real property in the proper transfer book in violation of subsection (d). Property taxes that are due and owing on the affected parcel of property may be collected as if the county auditor had not transferred the property in the proper transfer book in violation of subsection (d).

SECTION 4. IC 6-1.1-5.5-5, AS AMENDED BY P.L. 90-2002, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

- (1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).
- (2) Whether the entire parcel is being conveyed.
- (3) The address of the property.
- (4) The date of the execution of the form.
- (5) The date the property was transferred.
- (6) Whether the transfer includes an interest in land, improvements, or both.
- (7) Whether the transfer includes personal property.
- (8) An estimate of any personal property included in the transfer.
- (9) The name and address of each transferor and transferee.
- (10) The mailing address to which the property tax bills or other official correspondence should be sent.
- (11) The ownership interest transferred.
- (12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).
- (13) The total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.
- (14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.
- (15) Any family or business relationship existing between the transferor and the transferee.

(16) If the transferred property is residential property, the amount of any taxes deferred under IC 6-1.1-45.

(17) Other information as required by the department of local government finance to carry out this chapter."

Page 2, delete lines 36 through 42.

Page 3, delete lines 1 through 21.

Page 10, delete lines 7 through 42.

Page 11, delete lines 1 through 32.

Page 16, line 28, delete ":".

Page 16, line 29, delete "(1)".

Page 16, line 29, delete "; and".

Page 16, delete lines 30 through 31.

Page 16, run in lines 29 through 32.

Page 16, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 13. IC 6-1.1-21.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21.9. Property Tax Deduction Replacement Credits

Sec. 1. This chapter applies to a qualified property tax deduction.

Sec. 2. The definitions set forth in IC 6-1.1-21 apply throughout this chapter.

Sec. 3. As used in this chapter, "county property tax deduction replacement amount" means the sum of a particular county's taxpayer property tax deduction replacement credits.

Sec. 4. As used in this chapter, "qualified property tax deduction" means the property tax deduction under IC 6-1.1-12-4.

Sec. 5. As used in this chapter, "taxpayer's property tax deduction replacement credit" means the amount determined in the last of the following STEPS:

STEP ONE: Determine the sum of the taxpayer's qualified property tax deductions.

STEP TWO: Divide the STEP ONE amount by one hundred dollars (\$100).

STEP THREE: Multiply the STEP TWO result by the total net tax rate applicable in the taxpayer's taxing district.

Sec. 6. The department, with the assistance of the auditor of state and the department of local government finance, shall determine for each county an amount equal to the county property tax deduction replacement amount.

Sec. 7. For purposes of calculating tax rates, the county auditor shall add the sum of each county taxpayer's qualified property tax deductions to the county's net assessed value.

Sec. 8. For purposes of calculating a particular taxpayer's tax bill, the county treasurer shall add the sum of the taxpayer's qualified property tax deductions to the taxpayer's net assessed

1 value.

2 **Sec. 9. Each year each taxpayer that:**

3 **(1) has taxable property in a taxing district; and**

4 **(2) did not receive a deduction described in section 4 of this**
 5 **chapter;**

6 **shall receive a credit for property tax deduction replacement in**
 7 **the amount of that taxpayer's property tax deduction replacement**
 8 **credit amount applicable to the taxpayer's taxable property in a**
 9 **taxing district for taxes that under IC 6-1.1-22-9 are due and**
 10 **payable in May and November of that year. Fifty percent (50%) of**
 11 **the credit shall be applied to each installment of taxes if the**
 12 **taxpayer is required to pay more than one (1) installment. The**
 13 **dollar amount of the credit for each taxpayer shall be determined**
 14 **by the county auditor based on data furnished by the department**
 15 **of local government finance.**

16 **Sec. 10. (a) The department of state revenue shall distribute**
 17 **to the county treasurer in each county an amount equal to the**
 18 **total property tax deduction replacement amount credits granted**
 19 **in the county for the year under this chapter. The distribution**
 20 **shall be made in installments at the same time as installments are**
 21 **made under IC 6-1.1-21-10. The amount necessary to make the**
 22 **distributions required by this subsection is annually appropriated**
 23 **from the state general fund.**

24 **(b) The county treasurer shall distribute the amount received**
 25 **under this section to taxing units in the county in proportion to**
 26 **the amount of property tax revenue lost in the taxing unit as a**
 27 **result of the application of the credits granted under this chapter.**
 28 **The amount received by a county taxing unit under this section**
 29 **shall be treated as property taxes for all purposes.**

30 **SECTION 14. IC 6-1.1-22-5 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. On or before**
 32 **March 15 of each year, the county auditor shall prepare and deliver to**
 33 **the auditor of state and the county treasurer a certified copy of an**
 34 **abstract of the property, assessments, taxes, deductions, and**
 35 **exemptions for taxes payable in that year in each taxing district of the**
 36 **county. The county auditor shall prepare the abstract in such a manner**
 37 **that the information concerning property tax deductions reflects the**
 38 **total amount of each type of deduction. The abstract shall also contain**
 39 **a statement of the taxes and penalties unpaid in each taxing unit and the**
 40 **amount of taxes deferred under IC 6-1.1-45 at the time of the last**
 41 **settlement between the county auditor and county treasurer and the**
 42 **status of these delinquencies and deferred taxes. The county auditor**
 43 **shall prepare the abstract on the form prescribed by the state board of**
 44 **accounts. The offices of the auditor of state, county auditor, and**
 45 **county treasurer shall each keep a copy of the abstract in his office as**
 46 **a public record.**

47 **SECTION 15. IC 6-1.1-22-6 IS AMENDED TO READ AS**

1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The county
 2 treasurer shall keep a register of taxes and special assessments in the
 3 manner and on the form prescribed by the state board of accounts. ~~He~~
 4 **The county treasurer** shall enter:

- 5 (1) each payment of the taxes and special assessments in the
- 6 register on the day the payment is received; **and**
- 7 **(2) the deferral of the payment of property taxes in the**
- 8 **register on the day that a notice is received from the county**
- 9 **auditor under IC 6-1.1-45.**

10 SECTION 16. IC 6-1.1-22-8 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The county
 12 treasurer shall either:

- 13 (1) mail to the last known address of each person liable for any
- 14 property taxes or special assessment, as shown on the tax
- 15 duplicate or special assessment records, or to the last known
- 16 address of the most recent owner shown in the transfer book a
- 17 statement of current and delinquent taxes and special
- 18 assessments; or
- 19 (2) transmit by written, electronic, or other means to a
- 20 mortgagee maintaining an escrow account for a person who is
- 21 liable for any property taxes or special assessments, as shown on
- 22 the tax duplicate or special assessment records, a statement of
- 23 current and delinquent taxes and special assessments.

24 (b) The county treasurer may include the following in the
 25 statement:

- 26 (1) An itemized listing for each property tax levy, including:
- 27 (A) the amount of the tax rate;
- 28 (B) the entity levying the tax owed; and
- 29 (C) the dollar amount of the tax owed.
- 30 (2) Information designed to inform the taxpayer or mortgagee
- 31 clearly and accurately of the manner in which the taxes billed in
- 32 the tax statement are to be used.

33 **(c) The county treasurer shall include in a statement**
 34 **concerning residential real property that is distributed under**
 35 **subsection (a) after March 24, 2004, the following:**

- 36 **(1) Information concerning the availability of the property**
- 37 **tax deferral program under IC 6-1.1-45.**
- 38 **(2) The cumulative total of each of the property taxes**
- 39 **deferred under IC 6-1.1-45 in the current year and all prior**
- 40 **years, if the amount is greater than zero (0).**

41 **(d)** A form used and the method by which the statement and
 42 information, if any, are transmitted must be approved by the state board
 43 of accounts. The county treasurer may mail or transmit the statement
 44 and information, if any, one (1) time each year at least fifteen (15) days
 45 before the date on which the first or only installment is due. Whenever
 46 a person's tax liability for a year is due in one (1) installment under
 47 IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed
 48 must include the date on which the installment is due and denote the

1 amount of money to be paid for the installment. Whenever a person's
 2 tax liability is due in two (2) installments, a statement that is mailed
 3 must contain the dates on which the first and second installments are
 4 due and denote the amount of money to be paid for each installment.

5 ~~(c)~~ (e) All payments of property taxes and special assessments
 6 shall be made to the county treasurer. The county treasurer, when
 7 authorized by the board of county commissioners, may open temporary
 8 offices for the collection of taxes in cities and towns in the county other
 9 than the county seat.

10 SECTION 17. IC 6-1.1-22-9, AS AMENDED BY P.L.1-2004,
 11 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: Sec. 9. (a) Except as provided in IC 6-1.1-7-7,
 13 **IC 6-1.1-45**, section 9.5 of this chapter, and subsection (b), the
 14 property taxes assessed for a year under this article are due in two (2)
 15 equal installments on May 10 and November 10 of the following year.

16 (b) A county council may adopt an ordinance to require a person
 17 to pay the person's property tax liability in one (1) installment, if the tax
 18 liability for a particular year is less than twenty-five dollars (\$25). If the
 19 county council has adopted such an ordinance, then whenever a tax
 20 statement mailed under section 8 of this chapter shows that the person's
 21 property tax liability for a year is less than twenty-five dollars (\$25) for
 22 the property covered by that statement, the tax liability for that year is
 23 due in one (1) installment on May 10 of that year.

24 (c) If property taxes are not paid on or before the due date, the
 25 penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent
 26 taxes.

27 (d) Notwithstanding any other law, a property tax liability of less
 28 than five dollars (\$5) is increased to five dollars (\$5). The difference
 29 between the actual liability and the five dollar (\$5) amount that appears
 30 on the statement is a statement processing charge. The statement
 31 processing charge is considered a part of the tax liability.

32 SECTION 18. IC 6-1.1-22-10 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A person
 34 who is liable for property taxes under IC 6-1.1-2-4, **including property**
 35 **taxes deferred under IC 6-1.1-45 after the deferred taxes become**
 36 **due**, is personally liable for the taxes and all penalties, cost, and
 37 collection expenses, including reasonable attorney's fees and court
 38 costs, resulting from late payment of the taxes.

39 (b) A person's liability under this section may be enforced by any
 40 legal remedy, including a civil lawsuit instituted by a county treasurer
 41 or a county executive to collect delinquent taxes. One (1) action may be
 42 initiated to collect all taxes, penalties, cost, and collection expenses
 43 levied against a person in the same county for one (1) or more years.
 44 However, an action may not be initiated to enforce the collection of
 45 taxes after ten (10) years from the first Monday in May of the year in
 46 which the taxes first became due. An action initiated within the ten (10)
 47 year period may be prosecuted to termination.

48 (c) **In addition to any other method of collection authorized**

under this article, the department of state revenue may collect:

- (1) property taxes deferred under IC 6-1.1-45, after the deferred taxes become due; and
- (2) all penalties, costs, and collection expenses, including reasonable attorney's fees and court costs accruing under this article, after the deferred taxes become due under IC 6-1.1-45;

as a listed tax.

SECTION 19. IC 6-1.1-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 45. Senior Citizen Property Tax Deferral Program

Sec. 1. (a) This chapter applies to the deferral of the due date for the part of the ad valorem property taxes on a homestead otherwise first due and payable in a year that exceeds the base taxable amount.

(b) This chapter does not apply to the deferral of any of the following:

- (1) Special assessments chargeable against a homestead.
- (2) Fees or charges that are included, by law, on a tax statement issued under IC 6-1.1-22-8 for parcels that include a homestead.

Sec. 2. (a) As used in this chapter, "base taxable amount" means the sum of the following, adjusted as required under subsections (b) and (c):

- (1) One hundred thirty-three percent (133%) of the amount of ad valorem property tax liability imposed on a homestead for the later of the following:

(A) The March 1, 2001, assessment date for property taxes first due and payable in 2002, if the claimant was an owner of the homestead on that assessment date.

(B) The first assessment date on which the claimant is an owner of the homestead.

- (2) Ad valorem property tax liability imposed on a homestead for improvements made to a homestead after the date specified in subdivision (1).

(b) For property taxes first due and payable for assessment dates after the later of the March 1, 2003, assessment date or the assessment date specified in subsection (a)(1)(B), the amount determined under subsection (a)(1) must be adjusted under this subsection. The adjusted amount is equal to the amount determined for the immediately preceding year under this section multiplied by the assessed value growth quotient applicable to property taxes payable in that year under IC 6-1.1-18.5-2.

(c) For property taxes first due and payable under subsection (a)(2) for assessment dates after the first assessment date on

1 which an improvement is subject to tax liability, the amount
 2 determined under subsection (a)(2) must be adjusted under this
 3 subsection. The adjusted amount is equal to the amount
 4 determined for the immediately preceding year under this section
 5 multiplied by the assessed value growth quotient applicable to
 6 property taxes payable in that year under IC 6-1.1-18.5-2.

7 Sec. 3. As used in this chapter, "claimant" means a person
 8 filing an application for the deferral of taxes.

9 Sec. 4. As used in this chapter, "homestead" means a
 10 homestead as determined in the manner provided in IC 6-1.1-20.9.

11 Sec. 5. As used in this chapter, "senior citizen" means a
 12 person who is at least sixty-five (65) years of age before January
 13 1 of a year in which taxes, subject to an application for deferral
 14 under this chapter, would otherwise be first due and payable.

15 Sec. 6. As used in this chapter, "surviving spouse of a senior
 16 citizen" means a surviving spouse of a senior citizen as
 17 determined in the manner provided in IC 6-1.1-12-9.

18 Sec. 7. For purposes of this chapter, a person shall be treated
 19 as:

20 (1) the owner of a homestead if the person has a relation to
 21 the homestead that qualifies the homestead for a homestead
 22 credit under IC 6-1.1-20.9; and

23 (2) having an interest that is an equity interest if the
 24 person:

25 (A) is a beneficiary of a trust that has an equity
 26 interest in a homestead; or

27 (B) has a life estate in the homestead.

28 Sec. 8. A claimant may defer the due date for the part of the
 29 ad valorem property taxes on a homestead otherwise first due and
 30 payable in a year that exceeds the sum of the base taxable amount
 31 if the following criteria are met:

32 (1) The homestead is the claimant's principal place of
 33 residence as determined in the manner provided in
 34 IC 6-1.1-20.9.

35 (2) The claimant is an owner of the homestead.

36 (3) The claimant is:

37 (A) a senior citizen; or

38 (B) the surviving spouse of a senior citizen.

39 (4) The owners of the homestead, including the claimant,
 40 must:

41 (A) have at least a twenty percent (20%) equity
 42 interest in the homestead; and

43 (B) meet any other criteria established by the
 44 department of local government finance that are
 45 reasonably necessary to protect the government's
 46 interest in recovering taxes deferred under this chapter

1 when the deferred taxes become due.

2 (5) If the claimant is:

3 (A) a life tenant, the claimant has the consent of the
4 holders of the remainder interest; or

5 (B) purchasing the property on contract, the claimant
6 has the consent of the seller and any other persons
7 purchasing the homestead on contract;

8 to defer the payment of taxes under this chapter.

9 (6) On the date a claim is filed under this chapter, the
10 claimant is not delinquent in the payment of any taxes
11 imposed on the homestead.

12 (7) The claimant files a written application for the deferral
13 in the manner and within the time required under this
14 chapter.

15 Sec. 9. The failure of a claimant to file an application for:

16 (1) a deduction under IC 6-1.1-12; or

17 (2) a homestead credit under IC 6-1.1-20.9;

18 for which the homestead would otherwise be eligible does not
19 disqualify the claimant from a deferral of taxes under this
20 chapter.

21 Sec. 10. An application for the deferral of taxes under this
22 chapter may be filed by:

23 (1) an individual who qualifies for a deferral of taxes under
24 this chapter;

25 (2) a guardian of the property of the individual described in
26 subdivision (1); or

27 (3) an attorney in fact of the individual described in
28 subdivision (1), as signified by a written power of attorney.

29 Sec. 11. An application for a deferral of taxes under this
30 chapter must be filed with the county auditor in the county in
31 which the homestead is located:

32 (1) after January 1; and

33 (2) before May 11;

34 of the year in which the taxes being deferred would otherwise be
35 first due and payable. However, the county auditor may set a later
36 filing deadline for an application upon showing just cause.

37 Sec. 12. (a) An application for a deferral of taxes under this
38 chapter must:

39 (1) be filed on the forms;

40 (2) contain the information; and

41 (3) be accompanied by any additional information;

42 prescribed by the department of local government finance.

43 (b) The claimant shall verify under penalties of perjury the
44 truth of the information set forth in an application.

45 Sec. 13. The county auditor shall grant applications of
46 claimants who qualify under this chapter.

1 **Sec. 14. If an application for a deferral of taxes under this**
 2 **chapter is not granted in full, the county auditor shall notify the**
 3 **claimant by mail. The claimant may appeal a ruling that wholly or**
 4 **partially denies an application in the same manner that appeals**
 5 **may be taken under IC 6-1.1-15.**

6 **Sec. 15. (a) If the county auditor grants an application under**
 7 **this chapter:**

8 **(1) the county auditor shall send a written notice of the**
 9 **approval of the application to:**

10 **(A) the claimant; and**

11 **(B) if the homestead includes real property, the county**
 12 **recorder;**

13 **(2) the county auditor shall send an electronic or a written**
 14 **copy of the notice, as determined by the county treasurer,**
 15 **to the county treasurer; and**

16 **(3) the county auditor shall send an electronic copy of the**
 17 **notice to the department of local government finance.**

18 **(b) The written notice provided by the county auditor under**
 19 **subsection (a) must be in the form prescribed by the department**
 20 **of local government finance. The electronic copy must be in the**
 21 **form jointly prescribed by the department of local government**
 22 **finance and the legislative services agency.**

23 **(c) The notice provided by the county auditor under**
 24 **subsection (a) must include at least the following information:**

25 **(1) The name of the claimant.**

26 **(2) A statement indicating that the deferral of taxes**
 27 **otherwise due in the specified year is approved.**

28 **(3) A statement identifying the amount of tax liability that**
 29 **is deferred for each taxing unit and the total amount of**
 30 **taxes that is deferred.**

31 **(4) A legal description of the homestead for which taxes are**
 32 **deferred.**

33 **(5) The index number assigned under IC 6-1.1-5-2 for the**
 34 **homestead or, if an index system is not used in the county,**
 35 **a description of the county, township, block, and parcel or**
 36 **lot in which the homestead is located.**

37 **(6) A statement indicating that the deferred taxes are a lien**
 38 **on the property relating back to the assessment date for the**
 39 **taxes.**

40 **(7) A description of the conditions under which the taxes**
 41 **become due.**

42 **(8) A description of the procedure that should be followed to**
 43 **pay the taxes.**

44 **The electronic copy of the notice submitted to the department of**
 45 **local government finance must include the Social Security number**
 46 **or other taxpayer identification number used by the claimant on**

1 the claimant's state adjusted gross income tax returns.

2 (d) The notice provided by the county auditor under
3 subsection (a) must include or be accompanied by a brief
4 statement explaining the following:

5 (1) A taxpayer whose property taxes are paid by a lender via
6 an escrow or other similar account must enter the total
7 amount of each installment on a copy of the notice and mail
8 the copy to the county treasurer.

9 (2) The taxpayer will receive a refund check from the
10 county in the amount that the taxpayer entered on the
11 notice within thirty (30) days after the later of:

12 (A) the date on which the installment is paid by the
13 lender; or

14 (B) the date on which the notice is received by the
15 county treasurer.

16 (3) The intent of this procedure is to ensure that the taxes
17 on the claimant's homestead are not paid twice.

18 Sec. 16. The county recorder shall record a notice of deferral
19 received under section 15 of this chapter, without charge, in the
20 miscellaneous records of the county recorder.

21 Sec. 17. The department of local government finance shall
22 distribute a copy of each notice received under section 15 of this
23 chapter to the department of state revenue and, in an electronic
24 format under IC 5-14-6, to the legislative services agency.

25 Sec. 18. (a) Not later than the next distribution date under
26 IC 6-1.1-21-10 after the department of state revenue receives a
27 notice under section 17 of this chapter, the department of state
28 revenue shall distribute from the state general fund to the county
29 treasurer an amount equal to the amount of the deferred taxes
30 covered by the notice, less an amount equal to the amount of
31 deferred taxes imposed by the state. The department of state
32 revenue shall notify the auditor of state to transfer from the state
33 general fund to the appropriate fund an amount equal to the
34 deferred taxes imposed by the state.

35 (b) An amount distributed under subsection (a) is a temporary
36 advance of the deferred taxes. The amount is not a debt of a
37 taxing unit but is subject to repayment solely from amounts
38 collected when the deferred taxes become due.

39 (c) Within thirty (30) days after receipt, a county treasurer
40 shall distribute the money received from the department of state
41 revenue among the entities imposing the deferred taxes in
42 proportion to the amount of deferred taxes imposed by each
43 entity.

44 (d) An amount distributed or transferred under this section
45 is available for use by a taxing unit to the same extent and in the
46 same manner as if the amount had been collected as taxes. For

1 purposes of computing the ad valorem property tax levy limits
 2 imposed under IC 6-1.1-18.5-3 or another provision, a taxing
 3 unit's ad valorem property tax levy for a particular calendar year
 4 includes that part of the levy deferred under this chapter.

5 (e) An error in the amount distributed or transferred under
 6 this section shall be corrected on the next settlement date after
 7 the error is discovered.

8 (f) The amounts necessary to make the distributions and
 9 transfers required by this section are annually appropriated from
 10 the state general fund.

11 **Sec. 19.** The approval of an application for a deferral of taxes
 12 under this chapter defers the due date for the payment of an
 13 installment of taxes even if the approval occurs after the due date
 14 under IC 6-1.1-22-9.

15 **Sec. 20.** (a) Subject to subsections (b) and (c), taxes deferred
 16 under this chapter become due on the earliest of the following:

17 (1) Subject to subdivision (3), thirty (30) days after the
 18 claimant ceases to occupy the homestead as the claimant's
 19 principal place of residence, as determined in the manner
 20 provided in IC 6-1.1-20.9.

21 (2) The date on which the owners cease to have at least a
 22 twenty percent (20%) equity interest in the homestead by
 23 reason other than death.

24 (3) If the claimant has died, the earliest of the following:

25 (A) The date on which an inheritance tax return would
 26 be due under IC 6-4.1 for the deceased claimant even
 27 if the estate of the deceased claimant is not required to
 28 file an inheritance return.

29 (B) The date on which the estate of the deceased
 30 claimant ceases to have at least a twenty percent (20%)
 31 equity interest in the homestead.

32 (C) Thirty (30) days after the date of the claimant's
 33 death, if the homestead transfers by operation of law or
 34 under an agreement on or after the claimant's death
 35 without becoming part of the estate of the deceased
 36 claimant.

37 (4) The date on which the claimant or another owner fails to
 38 comply with the requirements of a prior recorded security
 39 interest in the homestead that is senior to the lien for
 40 deferred amounts.

41 (b) Deferred taxes do not become due if the claimant's
 42 interest in a homestead is transferred to a trust and the claimant
 43 occupies the homestead as the claimant's principal place of
 44 residence, as determined in the manner provided in IC 6-1.1-20.9,
 45 after the transfer.

46 (c) Deferred taxes do not become due if the deceased

1 claimant's interest in a homestead is transferred to the surviving
 2 spouse of the deceased claimant by death or other transfer and
 3 the surviving spouse of the deceased claimant occupies the
 4 homestead as the claimant's principal place of residence, as
 5 determined in the manner provided in IC 6-1.1-20.9, after the
 6 transfer. For purposes of applying subsection (a), the surviving
 7 spouse of the deceased claimant shall be treated as the claimant
 8 if the deceased claimant's interest is transferred as described in
 9 this subsection.

10 Sec. 21. (a) No penalties accrue on the taxes deferred under
 11 this chapter until the due date for the taxes established by section
 12 20 of this chapter.

13 (b) The county fiscal body may adopt an ordinance to assess
 14 an interest charge on the taxes deferred under this chapter.
 15 Interest may begin to accrue immediately or after any period of
 16 time set forth in the ordinance. An ordinance adopted under this
 17 subsection must set forth the rate of the interest charge imposed
 18 if the rate is fixed or the manner in which the interest rate will be
 19 determined if rates are variable. The interest rate may not be less
 20 than the market rate for variable rate mortgages in the county.

21 Sec. 22. If taxes coming due under section 20 of this chapter
 22 are not paid by the due date, the taxes shall be treated as
 23 delinquent property taxes under this article. The county auditor,
 24 in the manner prescribed by the department of local government
 25 finance, shall notify the department of local government finance
 26 of the delinquency within fifteen (15) days after the taxes become
 27 delinquent.

28 Sec. 23. When taxes deferred under this chapter are paid, the
 29 county treasurer shall:

- 30 (1) record the taxes as paid;
- 31 (2) notify the county auditor of the payment;
- 32 (3) if the deferred taxes are for real property, submit a
 33 written release of the lien for the amount of the payment to
 34 the county recorder for recording in the miscellaneous
 35 records of the county recorder;
- 36 (4) notify the department of local government finance of the
 37 payment in the form prescribed by the department of local
 38 government finance; and
- 39 (5) distribute the amount of the payment to the auditor of
 40 state for deposit in the state general fund.

41 The department of local government finance shall notify the
 42 legislative services agency (in an electronic format under
 43 IC 5-14-6) and the department of state revenue of the payment.

44 Sec. 24. (a) Except:

- 45 (1) as required by federal law or regulation;
- 46 (2) in the case of a loan that is made, guaranteed, or insured

1 by a federal government lending or insuring agency
 2 requiring the borrower to make payments to a lender with
 3 respect to an escrow or other type of account; or

4 (3) in a case in which this section would impair the
 5 obligations of a borrower under an agreement executed
 6 before March 1, 2004;

7 a lender shall not require a borrower to maintain an escrow or
 8 other type of account with regard to taxes for which the borrower
 9 has elected to defer taxes under this chapter.

10 (b) For purposes of applying this section, an election to defer
 11 taxes in any year shall be treated as an election to defer a similar
 12 amount of taxes in later years except to the extent that:

13 (1) the borrower notifies the lender of different terms; or

14 (2) an application to defer taxes for a subsequent year is not
 15 filed within the time required under section 11 of this
 16 chapter.

17 (c) Any payments made by the borrower to the escrow or
 18 other type of account with regard to taxes, before the time of
 19 submission of the evidence of tax deferral, for any period, if not
 20 previously used in payment or partial payment of taxes, shall be
 21 refunded to the borrower within thirty (30) days after the payment
 22 is made.

23 SECTION 20. IC 6-8.1-1-1, AS AMENDED BY P.L.192-2002(ss),
 24 SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 1. "Listed taxes" or "taxes" includes only the
 26 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 27 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 28 **the senior citizen deferred tax liability (IC 6-1.1-45)**; the gross
 29 income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the
 30 state gross retail and use taxes (IC 6-2.5); the adjusted gross income
 31 tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the
 32 county adjusted gross income tax (IC 6-3.5-1.1); the county option
 33 income tax (IC 6-3.5-6); the county economic development income tax
 34 (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto
 35 rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the
 36 gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1);
 37 the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1);
 38 a motor fuel tax collected under a reciprocal agreement under
 39 IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial
 40 vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC
 41 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2);
 42 the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the
 43 hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5);
 44 the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 45 (IC 6-9); the various county food and beverage taxes (IC 6-9); the
 46 county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
 47 (IC 16-44-2); the emergency and hazardous chemical inventory form

1 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
2 and IC 9-30); the fees and penalties assessed for overweight vehicles
3 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
4 the solid waste management fee (IC 13-20-22); and any other tax or fee
5 that the department is required to collect or administer.

6 SECTION 21. [EFFECTIVE UPON PASSAGE] **(a) The**
7 **definitions in IC 6-1.1-1 apply throughout this SECTION.**

8 **(b) IC 6-1.1-45, as added by this act, applies only to ad**
9 **valorem property taxes first due and payable for assessment dates**
10 **after February 29, 2004."**

11 Page 16, line 38, delete "and IC 6-1.1-20.9, as added by this".

12 Page 16, line 39, delete "act,".

13 Page 16, line 41, delete "IC 6-1.1-20.9-2,".

14 Renumber all SECTIONS consecutively.

(Reference is to HB 1090 as printed January 30, 2004.)

Representative NOE